

REMARKS

In the non-final office action mailed on June 30, 2008, claims 1 – 15 were rejected under 35 U.S.C. §102(e) over U.S. Patent No. 6,424,998 (to Hunter); and claims 9 – 15 were rejected under 35 U.S.C. §112, ¶2.

The 102(e) date for the Hunter reference is April 28, 1999. Filed herewith is a 37 C.F.R. §1.131 Affidavit of David H. Sprogis that demonstrates that the invention as claimed in the present application was conceived at least as early as December 5, 1998 (¶4), and continuously and diligently developed until first being reduced to practice on March 17, 2000 (¶14) and further until July 28, 2000 (¶¶8 – 14), when U.S. Patent Application Ser. No. 09/627,870 was filed. The present application claims priority to U.S. Patent Application Ser. No. 09/627,870 filed July 28, 2000, which claims priority to U.S. Provisional Patent Application Ser. No. 60/148,807 filed August 13, 1999.

The Hunter reference, therefore, is not prior art to the present application under §102(e), and the applicant respectfully requests that the rejection over Hunter be withdrawn.

With regard to the §112, ¶2 issues, claims 9 – 13 are each amended herein to address the issue raised in the office action regarding the recitation of capabilities rather than the recitation of performing an act.

Applicant respectfully submits, therefore, that each of claims 1 – 15 is in condition for allowance. Favorable action consistent with the above is respectfully requested.

Respectfully submitted,



William E. Hilton
Registration No. 35,192
Gauthier & Connors LLP
225 Franklin Street, Suite 2300
Boston, Massachusetts 02110
Telephone: (617) 426-9180
Extension 111